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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Sam E. Kinney JR.

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05/02/2006

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EXAMINER

GREIMEL, JOCELYN

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/490,867	<b>Applicant(s)</b> KINNEY, SAM E.	
	<b>Examiner</b> Jocelyn W. Greimel	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 16-20 and 39-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16-20 and 39-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>see attachment</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel (US Patent No. 6,026,383, hereinafter "Ausubel") in view of Rackson et al (US Patent No. 6,415,270, hereinafter "Rackson") and in further view of Nemzow (US Patent No. 6,721,715, hereinafter "Nemzow").

In reference to claim 1-10 and 16-20, Ausubel discloses a method, medium and system in an auction between a plurality of potential bidders; comprising: generating a sequence of price values for a comparative bid parameter that is used by an originator of the auction, the sequence of price values being used to create a first view of the Dutch auction for the originator of the auction; selecting a price value in said sequence of price values; for at least a first potential bidder (col. 4, lines 29-39; col. 2, lines 51-67; col. 3, lines 1-67; col. 4, lines 1-29). The participants of the auction include an originator and at least one potential bidder (col. 3, lines 1-5).

The received first bid information represents a first bid that is originally defined in a context of the first bidder (col. 4, lines 5-10). Information reflective of the submitted first bid is stored, the stored information enabling a relative comparison of submitted

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bids (col. 6, lines 11-27). There are multiple bidders and multiple bids are transmitted, and second bid information is transmitted.

Ausubel additionally discloses performing a non-linear transformation using a look-up table (col. 8, lines 1-19). Ausubel teaches performing a demand curve using a look-up table with a non-increasing constraint (i.e. linear); there is disclosed performing a combination of linear, non-linear and look-up table transformations simultaneously (col. 8, lines 15-19).

3. Ausubel does not explicitly disclose a Dutch auction and/or selecting a price value in a sequence of price values; transforming the selected price value into the first bidder comparative bid parameter value that is used to create a second view of the Dutch auction for a first potential bidder, wherein said second view is associated with an auction item of a first type; and transforming the selected price value into a second bidder comparative bid parameter value that is used to create a third view of the Dutch auction for a second potential bidder, wherein said third view is associated with the auction item of a second type that is different from said first type.

Rackson et al disclosed a Dutch auction (col. 2, line 63 – col. 3, lines 32-40; col. 20, lines 64-67; col. 21, lines 1-25). It would have been obvious to one with ordinary skill in the art to modify the auction of Ausubel to include a Dutch auction because Rackson et al teaches multiple formats for auctions utilizing an optimum bidder such as using a Dutch auction format (col. 2, lines 46-65).

4. Nemzow teaches selecting a price value in a sequence of price values; transforming the selected price value into the first bidder comparative bid parameter

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value that is used to create a second view of the Dutch auction for a first potential bidder, wherein said second view is associated with an auction item of a first type; and transforming the selected price value into a second bidder comparative bid parameter value that is used to create a third view of the Dutch auction for a second potential bidder, wherein said third view is associated with the auction item of a second type that is different from said first type (col. 1, lines 19-40; col. 6, lines 46-67 – col. 7, lines 1-2). The conversion detailed in Nemzow teaches the views described by Applicant. It would have been obvious to one with ordinary skill in the art to modify the auction of Ausubel to include the views because Nemzow teaches using various views to aid in on-line financial transactions including dynamic web pages and web commerce programs.

5. Claims 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel in view of Rackson et al and further in view of Harrington et al (US Patent No. 6,161,099, hereinafter "Harrington").

In reference to claims 39-44, Ausubel discloses a method, medium and system in an auction between a plurality of potential bidders; comprising: generating a sequence of price values for a comparative bid parameter that is used by an originator of the auction, the sequence of price values being used to create a first view of the Dutch auction for the originator of the auction; selecting a price value in said sequence of price values; for at least a first potential bidder (col. 4, lines 29-39; col. 2, lines 51-67; col. 3, lines 1-67; col. 4, lines 1-29). The participants of the auction include an originator and at least one potential bidder (col. 3, lines 1-5).

The received first bid information represents a first bid that is originally defined in a context of the first bidder (col. 4, lines 5-10). Information reflective of the submitted first bid is stored, the stored information enabling a relative comparison of submitted bids (col. 6, lines 11-27). There are multiple bidders and multiple bids are transmitted, and second bid information is transmitted.

Ausubel additionally discloses performing a non-linear transformation using a look-up table (col. 8, lines 1-19). Ausubel teaches performing a demand curve using a look-up table with a non-increasing constraint (i.e. linear) there is disclosed performing a combination of linear, non-linear and look-up table transformations simultaneously (col. 8, lines 15-19).

6. Ausubel does not explicitly disclose a Dutch auction and/or sequentially transmitting information reflective of said sequence of bid values to a set of potential bidders, wherein in the absence of an acceptance of posted price by a bidder in the set of potential bidders, said transmitting continues until said second and/or a third bid value is reached.

Rackson et al disclosed a Dutch auction (col. 2, line 63 – col. 3, lines 32-40; col. 20, lines 64-67; col. 21, lines 1-25). It would have been obvious to one with ordinary skill in the art to modify the auction of Ausubel to include a Dutch auction because Rackson et al teaches multiple formats for auctions utilizing an optimum bidder such as using a Dutch auction format (col. 2, lines 46-65).

7. Harrington teaches sequentially transmitting information reflective of said sequence of bid values to a set of potential bidders, wherein in the absence of an

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acceptance of posted price by a bidder in the set of potential bidders, said transmitting continues until said second and/or a third bid value is reached (col. 4, lines 34-55). It would have been obvious to one with ordinary skill in the art to include sequentially transmitting information reflective of said sequence of bid values to a set of potential bidders, wherein in the absence of an acceptance of posted price by a bidder in the set of potential bidders, said transmitting continues until said second and/or a third bid value is reached because Harrington teaches the transmitting of the bid values to bidders so bidders can view the bids and use this information to make their bids more competitive.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-10, 16-20 and 39-44 have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

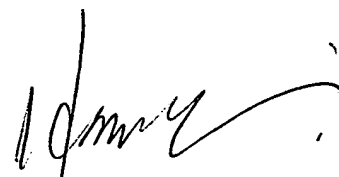
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn W. Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jocelyn Greimel  
Examiner  
April 14, 2006

A handwritten signature in black ink, appearing to read 'H. Kazimi', with a long horizontal flourish extending to the right.

**HANI M. KAZIMI**  
**PRIMARY EXAMINER**